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Executive Summary of the International Forum on Intercountry Adoption and Global Surrogacy

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Executive Summary of the
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Kristen E. Cheney, Editor



The International Forum on Intercountry Adoption & Global Surrogacy (ICA Forum) took place at the International Institute of Social Studies (ISS) from 11 to 13 August 2014. The goal was to provide an opportunity for scholars and practitioners to come together to provide an evidence base for international adoption and surrogacy problems and/or best practices. The ICA Working Paper series summarizes the deliberations that took place at the Forum.

Each paper in the series is authored by a chairperson of one of the Forum's five thematic areas, with feedback from thematic area participants. There is also an executive summary by the organizer.

For more information about the Forum, please visit iss.nl/adoption_surrogacy

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INTRODUCTION¹

Preparations for the 11-13 August 2014 International Forum on Intercountry Adoption and Global Surrogacy took place amidst reports of numerous developments and scandals coming to light in international news. Revelations of extreme abuse by adoptive parents included the death of 13-year-old Hana Williams from Ethiopia at the hands of US adoptive parents² and abandonment of adopted children through ‘rehoming’.³ These stories fuelled concerns of sending countries that, recognizing fraud and trafficking warning signs in their own adoption systems, also led to suspension of intercountry adoption, as in the Democratic Republic of the Congo⁴ and more recently in Kenya.⁵ At the same time, the abandonment of a baby with Down syndrome born through commercial surrogacy in Thailand highlighted the need to also carefully examine the growing practice of international commercial surrogacy.⁶ All of these stories bring to light the challenges remaining for intercountry adoption and global surrogacy, making an international forum for discussion of these issues quite timely and important.

This executive summary, the first in a series of six reports about the International Forum on Intercountry Adoption and Global Surrogacy, characterizes the overall findings from the Forum’s five thematic areas: *HCLA Implementation and the Best Interests of the Child*; *Intercountry Adoption, Countries of Origin, and Biological Families*; *Intercountry Adoption Agencies and the HCLA*; *Force, Fraud, Coercion*; and *Global Surrogacy Practices*. The intention here is to characterize the overall tenor of conversations by recognizing dominant themes and summarizing the discussion around them. Please reference individual reports in this series for more detailed information.

The executive summary first describes the background and purpose of the Forum, and then provides an overview of the planning and schedule. It details

¹ **Acknowledgements:** I would like to thank the many people who made this Forum possible. First and foremost, I would like to thank the chairs – Sarah Richards, Riitta Högbäck, Peter Selman, Karen Smith Rotabi, and Marcy Darnovsky – for their tireless efforts to make the Forum a success; the HCCH Permanent Bureau for encouraging the Forum from its genesis and providing valuable feedback throughout the process; and keynote speakers Hans van Loon, Deepa Venkatachalam, and Norma Cruz for generously sharing their expertise.

At ISS, I would like to thank the PER research group, particularly chair Max Spoor, for providing funding; Sharmini Bisessar for her invaluable administrative assistance; Katherine Voorvelt for helping get the Moodle site up and running; ICT, especially Anwar Dhonre, for technical support; ISS’ marketing and communications office, especially Jane Pocock and Sandra Nijhof, for assistance getting the word out and providing conference materials; and last but not least, all the ISS student volunteers for their important contributions before, during, and after the Forum.

² http://www.slate.com/articles/double_x/doublex/2013/11/hana_williams_the_tragic_death_of_an_ethiopian_adoptee_and_how_it_could.html, accessed 8 December 2014.

³ <http://www.reuters.com/investigates/adoption/#article/part1>, accessed 8 December 2014.

⁴ <http://travel.state.gov/content/adoptionsabroad/en/country-information/alerts-and-notices/DRC7-11-14.html>, accessed 8 December 2014.

⁵ <http://www.nation.co.ke/news/Cabinet-No-more-foreign-adoptions/-/1056/2537564/-/feyt4qz/-/index.html>, accessed 8 December 2014.

⁶ <http://www.abc.net.au/7.30/content/2014/s4089822.htm>, accessed 8 December 2014.

each of the keynote addresses, and then discusses the dominant themes that emerged out of the Forum. Finally, it characterizes some of the suggestions and recommendations that emerged in the deliberations.

Background and Purpose

The Hague Conference on Private International Law drafted the 1993 Hague Convention on Intercountry Adoption (HCIA) to provide global, children's rights-based standards for international adoptions. After 20 years of Hague Convention implementation, however, many concerns about international adoption remain. In addition, it was determined in the 2010 Special Commission that concerns over the rise in international surrogacy practices could not be covered under the HCIA. The Hague Conference has published several documents that analyse the issues surrounding parentage and international surrogacy arrangements.

In light of the HCCH surrogacy report and the fourth Special Commission of the HCIA in 2015, Kristen Cheney, Senior Lecturer of Children and Youth Studies at the International Institute of Social Studies (ISS) of Erasmus University Rotterdam in The Hague, The Netherlands, recognized the unique opportunity to gather activists, practitioners and scholars together to discuss the issues.

Planning for the Forum began in July 2013 at the Fourth International Conference on Adoption Research (ICAR4) in Bilbao, Spain, where Cheney and most of those who would become chairs of thematic areas initially met to discuss the concept.

The purpose of the Forum was to provide an opportunity for scholars and practitioners to come together to provide an evidence base for international adoption problems and/or best practices, especially those that might inform the Hague Conference and HCIA Central Authorities as well as other international policy-makers about the latest state of knowledge about intercountry adoption and surrogacy. Crosscutting themes thus reflected topics pertinent to the surrogacy report and the Special Commission.

As the emphasis was to be on dialogue rather than presentation, the thematic area chairs agreed on a design that would minimize traditional presentation and maximize dialogue and problem solving through crosscutting conversations across themes, disciplines, and professional orientations to the topics.

This series of reports by the Thematic Area chairs is meant to summarize those discussions in an attempt to help inform not only the HCCH's work in the Special Commission but any others interested.

Participants

Participants were selected at first by targeted invitation, and then by open call. Nearly 100 scholars, activists, and researchers from 27 different countries, from Australia to Zambia, registered for the Forum. Since many of them also conduct research and advocacy activities in other countries from those in which they re-

side, international representation was in that sense much broader. See Appendix 1 for a list of participants in attendance at the Forum.

Organization

The Forum was organized into five thematic areas, modelled loosely on the draft agenda for the next HCIA Special Commission to take place in spring 2015. The thematic areas and invited chairs were:

1. *HCLIA Implementation and the Best Interests of the Child*: chaired by Sarah Richards, Senior Lecturer in the Department of Children, Young People and Education at University Campus Suffolk, United Kingdom. Topics included: framing of children and childhood within the convention; best practices and country case studies; the subsidiarity principle; family support interventions and prevention of institutionalization; use of other conventions for situations not covered under the HCIA; special-needs trends and best practices.
2. *Intercountry Adoption, Countries of Origin, and Biological Families*: chaired by Riitta Högbäck, Adjunct Professor (Docent) in Sociology, Researcher and Lecturer at the Department of Social Research in Helsinki University, Finland. Topics included: Countries of origin and first parents'/biological parents' perspectives and concerns; implications of the subsidiarity principle and 'best interests of the child'; coercion, families of origin and global inequality; orphan care, foreign aid and assistance to biological families; open inter-country adoptions and maintaining contact.
3. *Intercountry Adoption Agencies and the HCIA*: chaired by Peter Selman, Visiting Fellow in the School of Geography, Politics and Sociology at Newcastle University, United Kingdom. Topics included: evaluation of agency regulation-strengths and weaknesses including financial transparency; use of communication technologies in the adoption process, both pre- and post-adoption; selection and preparation of prospective adoptive parents, including management of expectations.
4. *Force, Fraud, Coercion*: chaired by Karen Rotabi, Associate Professor of Social Work, United Arab Emirates University, UAE. Topics included: grounding concepts in human trafficking and their application to problems in inter-country adoption and global surrogacy; current issues of human trafficking dynamics in intercountry adoption and/or the emerging global surrogacy practice; child abduction into adoption; similarities and differences between ICA FFC and global surrogacy; the concept of *exploitation* of poor women/surrogates versus opportunity for poor women/surrogates; financial aspects of intercountry adoption and global surrogacy.
5. *Global Surrogacy Practices*: chaired by Marcy Darnovsky, Executive Director of the Center for Genetics and Society, Berkeley, California, USA: women's experiences as surrogates; impacts of race, class, gender and power on their decisions, health outcomes, human rights, and well-being; experiences of and outcomes for resulting children, intended parents and egg providers in surrogacy arrangements; understanding the range of surrogacy regulations and practices in different jurisdictions (including 'best practices' and 'most problematic practices'); similarities to, differences with, and lessons learned from intercountry adoption.

Planning

The Forum website⁷ was established in December 2013 with the full concept note. Chairs initially extended targeted participant invitations to experts relevant to their respective thematic areas. Invitations were later opened to other interested parties. Though chairs were responsible for the format and content of their own concurrent sessions, the organizer and thematic area chairs shaped other Forum activities such as plenary sessions through regular conference calls throughout the year.

In May 2014, the ISS launched a Moodle online platform for Forum participants. This platform included general information about and readings for the Forum and detailed schedules and readings for each thematic area.

Schedule

Each day of the Forum began with a brief keynote address by a noted expert in the field of intercountry adoption or surrogacy. Following each plenary presentation and discussion, participants broke into concurrent sessions according to thematic areas. Thematic area chairs planned a number of concurrent sessions jointly to address topics salient to multiple thematic area participants.

Forum participants reconvened at the end of each day for a closing plenary session that briefly recapped the various discussions that took place in concurrent sessions (for the benefit of participants, who could only be in one place at a time). This provided an opportunity to synthesize the various ideas generated at the Forum and allowed for further discussion. To facilitate these goals, each thematic area chair pre-arranged for one person to prepare and deliver brief ‘reflections’ about each of the concurrent sessions at the beginning of the closing plenaries. These ‘reflectors’ were given five minutes to present an overview of the content and flavour of the discussion at the session in question, as well as to include some of their own observations and questions. Participants then engaged in extended discussions.

Following the closing plenary on the second day of the Forum, participants attended a screening of the documentary entitled *Can We See the Baby Bump, Please?* The film about commercial surrogacy in India was made by Sama Resource Group for Women and Health. Sama’s Deepa Venkatachalam answered questions.

All plenary presentations and discussions were live-streamed, and are archived on the ISS website.⁸ Please see Appendix 2 for the complete Forum schedule.

⁷ http://www.iss.nl/adoption_surrogacy

⁸ Ibid.

KEYNOTE ADDRESSES

Each of the Forum's three days started with a plenary address by a prominent figure addressing general issues pertinent to the Forum. They were asked to keep their comments brief but to pose some thoughts that would set the tone for further discussion among participants in their thematic area concurrent sessions. Each brought a distinct perspective based on their expertise that helped raise the tenor of discussion at the Forum. I summarize their comments below.

Hans van Loon

Hans van Loon, former Secretary General of the Hague Conference on Private International Law (1996-2013), was the opening keynote speaker. As one of the architects of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (HCIA), Van Loon was in a position to contextualize the debates of the Forum within the original objectives of the HCIA, which currently has 93 contracting countries.

Van Loon started by distinguishing between legal adoption and other alternative forms of childcare like guardianship, foster care, and *kafala*, which may share similar social functions with adoption, but are legally distinct. 'It's important for one thing,' he said, 'because consent to a guardianship, *kafala*, or foster care should not be taken as a consent to adoption. The adoption convention in several of its articles provides very detailed, mandatory requirements for informed, freely given consent by the birth parents and others – and for very good reasons. Abuses of consent have been, unfortunately, and still are, common particularly in cross-border situations.'

Van Loon spoke about the circumstances surrounding the initiation of the HCIA; its genesis was influenced by demographic changes in the 1960s, in which birth rates fell in the global North while rising in the global South. During this time, it became apparent that previous conventions that might cover intercountry adoption were inadequate to account for the current realities. The Hague Conference, having direct experience with cross-border cooperation in family law, was in a position to guide the process, even where the United Nations had failed. The concurrent fall of the 'Iron Curtain' in Eastern Europe and the subsequent 'adoption rush' as well as the promulgation of the 1989 UN Convention on the Rights of the Child helped spur the negotiations.

However, Van Loon noted that the process was not without its challenges, many of which remain. These include support for subsidiarity, the role of accredited bodies, access to information (both about the child for prospective adoptive parents and about a child's origins), acquisition of the child's citizenship in the receiving country, guidelines for emergencies (including natural disasters and refugee situations), and the extent to which HCIA safeguards and procedures can and should be applied in relation to non-contracting states.

He pointed out that while intercountry adoption takes place in the context of global inequalities, the HCIA does not (and cannot) address the root causes of such one-way migrations of children from poorer to wealthier countries. Nonetheless, the HCIA ‘seeks to combat and prevent resulting abuses and other adverse effects’ through a protective and cooperative international legal framework ‘within which children may safely find a new home abroad, with new development opportunities and new life perspectives. If it were not so, we should have abolished intercountry adoption. We have created a framework within which we hope that positive things may happen. The Convention specifically aims to prevent the abduction, kidnapping, the sale of, and trafficking of children, and thereby protects not only the child but also the birth parents.’ The HCIA sets minimum standards for intercountry adoption by making the state of origin and receiving state jointly responsible for every adoption, providing for the orderly transfer of and authorisation for permanent residence of children concerned.

Van Loon pointed out that the legality and ethics of intercountry adoption practice was already at a critical juncture when HCIA negotiations began – and might well have fallen ‘into complete disrepute’ had a regulatory convention not been promulgated. The HCIA restored control over intercountry adoption to the states of origin, and the subsidiarity principle in particular actually had a positive impact on domestic adoptions in those countries by increasing awareness of ‘good, bad, and dubious practices’. At the same time, Van Loon claimed, it provided a mechanism for streamlining intercountry adoption for the children who really needed it and enhanced its quality by reinforcing the legal status of adopted children. This was further augmented by the community-building cooperation of Central Authorities, as well as partnerships between sending and receiving countries.

Finally, Van Loon considered the future of the HCIA. He gave China as an example where the improving political-economic situations of states of origin have the potential to positively impact on both ICA and domestic adoption from that state. As ICA demographics in China and elsewhere shift to older children, children with special needs, and/or adoption of sibling groups, however, there is also need for greater preparatory education of prospective adoptive parents.

In any case, proper HCIA implementation requires improvements to the domestic childcare infrastructure, which makes technical support from both The Hague Conference and other international organizations like UNICEF equally crucial. This will help states avoid the pitfalls of bureaucratization and the unnecessary institutionalization of children – a concern of African states as adoptions rise on the continent, where only 14 countries have joined the HCIA. More energetic efforts are therefore needed to bring African states on board. Van Loon claimed that ‘as long as these states stay out of the Convention, they are depriving themselves of the tools to control intercountry adoption and they do not benefit from the assistance programs created to promote the Convention’.

In sum, Van Loon said, the future of the Convention involves intensifying the building of global infrastructure to provide families for children who need them, based on a continuum of childcare.

Deepa Venkatachalam

Deepa Venkatachalam, director of Sama Resource Group for Women and Health in India, gave the second keynote address. A specialist in the social, medical, ethical and economic implications of intercountry surrogacy – for women and for society as a whole – Venkatachalam gave an overview of the surrogacy industry in India, which is one of the most popular destinations for international commercial surrogacy. She placed commercial surrogacy in the political economic context of global trends in labour, medical technologies, and the overall commercialization of health; summarized the key findings of a qualitative study of surrogates conducted by Sama; and reviewed India's current policies on intercountry surrogacy.

Venkatachalam began by asking why India is such a popular destination for surrogacy. Part of the answer lies in the fact that India has a previous history of medical tourism and medical expertise, including foreign nationals and Indian nationals living abroad – despite the paradoxically poor medical care available to many in the country. People tend to choose India to arrange contract pregnancies because of lower costs and shorter waiting times, a relatively developed infrastructure and the availability of women who are willing to enter into surrogacy arrangements. There is no law governing surrogacy (only a bill introduced in 2008 and redrafted in 2010 but never passed), which allows for dubious practices. The lack of regulation has resulted in a burgeoning medical tourism market, including assisted reproductive technologies, 'a recent addition to the list of services that India is selling to the world,' she said, 'and we are selling it because the government and the state have taken proactive steps to provide subsidies – to give tax breaks – to companies to facilitate this industry.' A diverse range of actors – from individuals to multinational brokers – contribute to this environment. According to Venkatachalam, about 3,000 clinics in India offer fertility services – only 280 of which have voluntarily registered. Indications are that they are not only located in major urban centres but have penetrated into small towns outside of major cities. The estimated cumulative revenue is between one to two billion US dollars, or \$445 million per year.

Venkatachalam also considered the rise of international commercial surrogacy in India to be a symptom of the changing nature of women's labour. By also placing it in the context of increasing informalisation of women's work along the lines of other sexualized labour (which some women choose over domestic and factory work), surrogates can wind up contributing to their own oppression. Some surrogates even become agents for the recruitment of other surrogates.

Surrogate mothers tend to come from the lower socioeconomic classes of various castes (the commissioning parents can choose the caste of their surrogate, at a price – which Venkatachalam says raises the spectre of eugenics). Recruiters tend to come from the private medical sector and recruit at different levels. Some go into slum areas to find women willing to work as surrogates, but large agencies also advertise widely. Whatever the method, they look for women who appear healthy, docile and compliant. The most desirable surrogate mother is typically married with children.

Most women say they entered into surrogacy arrangements because they have no other options that allow them to make so much money at once (USD \$2-8000). Some had overwhelming financial debts and responsibilities and thought that being a surrogate might relieve that financial pressure. Most felt it was better and less risky than other forms of sexualized, domestic, or factory work; in fact, they sometimes chose to be surrogates in part because they felt they were doing something noble for an infertile couple. But even those who do it multiple times find that it does not aid their class mobility, and most still end up in domestic and factory work anyway.

Even so, there is still more demand for surrogacy services than supply, because women considering becoming pregnant by contract lack the information to trust the process and do not immediately accept the job. Surrogacy remains highly stigmatized, such that many women do not even tell their own families that they are acting as surrogates. Women engaging in surrogacy tend to stay in hostels, for privacy and monitoring. However, Venkatachalam told of an instance in Punjab where, because women usually stay at home during the entire pregnancy, they would go through the pregnancy as if they were carrying their own child, then go to deliver at the hospital and relinquish the child. Afterward, they would come back and tell their community that the child had been stillborn. One woman reported that her community had held a memorial for the baby. Venkatachalam noted that invisibility is really problematic because the clinics tend to use it to manipulate and control surrogates.

Payment is also problematic: the 2008 draft bill suggested that the pay schedule should be 75 per cent before and 25 per cent after the baby is delivered, but in 2010, under pressure from the medical establishment, they reversed that schedule such that the bill now states that surrogate mothers be paid 75 per cent of the fee only upon delivering – reinforcing both the control of surrogates by the industry and the notion of the child as a product.

Indeed, the ultimate goal of fertility clinics and commissioning parents is to produce a healthy child, which has implications for the health of the surrogate mother. For example, clinics can either hasten or delay the delivery of the baby to accommodate clients who wish to be present at the birth. However, women who bear children under contract are typically prohibited from breastfeeding because in order to keep them from forming a bond with the child. Once the child is delivered, therefore, the surrogate mothers are left on their own – with whatever lingering health issues remain.

In 2012, the Indian Ministry of Home Affairs issued a notice stating that foreign commissioning parents must enter India on a medical visa (rather than a tourist visa) and produce a letter from their home country stating that the home country allows surrogacy and will accept the commissioning parents returning with a child born from a surrogacy arrangement. They frame this notice in terms of the 'best interest of the child', but its other provisions, e.g. that only couples married for two years can apply, is clearly based on a hetero-normative family model that necessarily excludes some prospective commissioning parents like homosexual couples and single people.

Norma Cruz

The final keynote speaker was Norma Cruz, a human rights defender for mothers and their children who have been abducted into international adoption.⁹ She is also the founder of the Survivors Foundation (*Fundación Sobrevivientes*) in Guatemala. In 2005, Cruz was nominated for a Nobel Peace Prize for her social justice work on behalf of women and children in Guatemala and was awarded a US State Department International Woman of Courage Award in 2009.

Cruz discussed the conditions that led to a necessity to stem the flow of illegal adoptions through implementation of the HCIA in Guatemala. She wished not only to convey the sadness and harsh realities of Guatemalans' experiences but also the positive stories of their encounters with adoption, especially those of women and children. Adoption fraud in Guatemala took place within a context of civil war¹⁰ and a patriarchal system of 'machismo, racism, and sexism' that disproportionately affected women by reducing them to objects for manipulation and exploitation. Women have had their children taken from them, and she wanted to share the lessons learned from that experience.

Cruz described women who had not only been killed during Guatemala's civil war in the 1980s but who had also had Caesarean sections performed on them seven to eight months into their pregnancies. Authorities could not find the children, however, so they deduced that the babies had been abducted by those who had killed the mothers. Women were therefore not only losing their lives but their rights to be mothers. That was when Cruz and her colleagues began to understand that the Survivor Foundation's mission was to protect women from violence and protect the rights of birth families, which were being overlooked. Part of that involved obtaining legal permission to search for these and other missing children in orphanages, since it was becoming clear that children were increasingly being trafficked for money.

The children who were stolen were also having their identities taken from them. The HCIA provided some redress to the emerging industry in which children were being provided for families by helping guarantee the rights of children. However, the growing industry in child trafficking was proving so lucrative that the Guatemalan state was becoming complicit. In other words, they were losing the spirit of the HCIA. The eventual ratification of the HCIA and the new laws enacted as a result are an effort to regain that spirit. Guatemala did not say 'no' to adoption but shifted to special needs adoptions, because they did not want to deny homes to children who needed them. At the same time, however, they are trying to focus more on preventing problems from arising.

Cruz discussed some particular cases that helped the Survivors Foundation understand how criminal elements operated in illegal adoptions in order to combat them. For example, they were able to nullify false birth certificates in order to help abducted children to reclaim their identities.

⁹ Norma's keynote was delivered in Spanish and interpreted by Forum participant Carmen Monico.

¹⁰ Guatemala's civil war lasted from 1960-1996.

- The case of Anyelí Hernández Rodríguez, who was abducted into adoption in the US in 2007, has changed history in Guatemala by providing the impetus for new adoption and anti-trafficking laws. Anyeli's mother, Loyda Rodríguez, was one of several women who went on hunger strike in 2008 to demand the return of their children abducted into adoption.¹¹ Though Anyeli's adoptive family refuses to return her to Guatemala under order of the Guatemalan courts, activism by mothers like Loyda Rodríguez ultimately led Guatemala to suspend adoptions until they signed the HCIA and could rebuild their child protection system to prevent such abuses (see Thematic Area 4 report for a full case study on lessons from Guatemalan adoptions).
- Keneth Alexis López Agustín was abducted for adoption purposes in 2009 and Alba Michelle España Díaz was kidnapped for sexual exploitation in 2007. After both their remains were found, their cases galvanized support for better child protection measures in Guatemala. Now, thanks to the AlbaKeneth Alert system (similar to the Amber Alert in the US) authorities are better able to track stolen children within 24 hours and put perpetrators in jail.
- Dolores Maria Praet was abducted from Guatemala as a child in 1984 for the purpose of international adoption, grew up in Belgium, and returned to Guatemala 28 years later to search for her birth mother. In the process, she also discovered the name of her kidnapper, Rosario Colop. Colop was detained in August 2014 and will likely be sentenced to 50 years in jail.¹²

Now, Guatemala is facing new forms of exploitation of women and children, including commercial surrogacy, that again threaten the spirit of the HCIA and other conventions prohibiting violence against women, 'because in essence what we are doing through this new type of industry is to instrumentalise the bodies of women only as generators of new life to satisfy the needs of others, not as complete human beings.' The first case of surrogacy was on the Mexican border, an environment with a lot of drug and human trafficking. They did not even know what to call surrogacy when they came across it just a few weeks previously, but Cruz said that their participation in the Forum would allow them to engage in a new discussion about surrogacy. Current law would view surrogacy as a crime because a woman would essentially be seen as selling a child. Surrogacy indicates a new modality of illegal activity taking place in Guatemala, 'because in essence,' Cruz said, 'this is a source of exploitation of human beings, which is contrary to our culture.'

Cruz concluded that Guatemalans still have to reflect on both what they have done well and where they still need to improve, especially by listening to the views of marginalized women and children. Through dialogue and sharing experiences, they continue to learn.

While some may feel that the HCIA serves to legitimize ICA (especially without regard for first families), Cruz feels that it has been a positive and necessary

¹¹ For more information on this case, see <http://somebodyschildren.com/2012/05/>, accessed 9 December 2014.

¹² For more on this story, see <http://www.flanderstoday.eu/current-affairs/brussels-woman-finds-mother-after-being-kidnapped-30-years-ago>, accessed 9 December 2014.

instrument overall that has helped to regulate a profit-making industry, especially for intermediaries who exploit women, children, and prospective adoptive parents. However, it must be continually revised in order to respond to changing realities and close loopholes. This will ensure that the spirit of the HCIA endures.

KEY FORUM THEMES

A number of key themes emerged over the course of the Forum. My intent is not to exhaustively detail them here but rather to characterise them broadly and refer the reader to individual Thematic Area reports for more information.

What's in a Name? Terminology Matters

Terminology was an important starting point for laying the ground rules of discussion at the Forum – particularly for how one refers to the people involved in ICA and global surrogacy. For example, Riitta Högbäck cited Sarah Hrdy (1999: 57) in her report on Thematic Area 2, *Intercountry Adoption, Countries of Origin, and Biological Families*: ‘...all parenting can be argued to involve physical and bodily processes and are “biological” in that sense. The term “birth mother”, on the other hand, looks at these women purely from the point of view of the Global North, as “just” giving birth so that others can become the “real” parents (see also Smolin, 2012: 315).’

By comparison, Peter Selman, chair of Thematic Area 3, *Intercountry Adoption Agencies and the HCLIA*, asks, ‘Who is the “birth mother” in cross-border surrogacy?’ However, during Deepa Venkatachalam’s keynote discussion, participant Anand Kaper asked what happens if, like adoptees, children born by surrogacy come back asking about their surrogate parent? Who gets to determine who is that person’s actual parent? Who can and should determine that, legally, socially, and emotionally?

Marcy Darnovsky, chair of Thematic Area 5, *Global Surrogacy Practices*, and Diane Beeson write, ‘Some terms, such as “birth mother” and “gestational mother”, explicitly acknowledge the maternal aspect of the woman’s role. Others, such as “gestational carrier”, make her maternity and even her personhood less visible (Beeson et al., 2014).’ (Darnovsky and Beeson, 2014: 24).

The same applied to labels describing children in intercountry adoption, which often freeze adoptees in time by referring to them as perpetual children. There is also the question of what is meant by ‘special needs’ and how the label may affect adoptees. While many are reporting a rise in the number of adoptions of children with special needs, there is a lack of common understanding of the definition of special needs; according to agencies and Central Authorities, this could mean anything from permanent, debilitating medical conditions to children who have been institutionalized for a long time, to being a relatively older child available for adoption (i.e. seven years or older). Research shows higher failure rates among adoptions involving older and special needs children (cf. Rushton and Dance, 2004; Misca, 2013). Sarah Richards, chair of Thematic Area 1, *HCLIA Implementation and the Best Interests of the Child*, noted that in a joint session, ‘The representatives of adoption agencies in this session agreed that while greater sensitivity about the labels attributed to children is needed, so too is clearer information provided by the sending country about the children and their specific needs.’

Karen Rotabi, chair of Thematic Area 4, *Force, Fraud, and Coercion*, noted that among Forum participants, ‘...there is a fundamental disagreement as to whether surrogacy should be viewed and treated as legitimate “work”.’ Whether or not one views commercial surrogacy as a legitimate form of labour – as well as whether the children born through surrogacy can be seen as goods – has serious implications for whether and how to go about regulating the practice. According to Darnovsky and Beeson, ‘An advantage of accepting this definition is that it may empower women to demand better working conditions, health protections and higher financial compensation (Pande, 2014b). At least hypothetically, such a definition could bring labour and occupational health policies to bear in support of women entering into contract pregnancies.’ Many participants expressed a concern for where such an allowance ends, however; if we talk about commercial surrogacy as a form of work, does it imply that the baby is a product? In other words, is commercial surrogacy service work or a form of production? Darnovsky and Beeson noted that, ‘If surrogacy arrangements are not to be seen as baby selling...payment to gestational mothers must not depend on the success of the pregnancy or the health of the child’.

So while participants came to no consensus on appropriate terms, there was general agreement that language and vocabulary matter because of the ways in which they frame debates (see Beeson et al., 2014). One must therefore carefully examine one’s own reasons for choosing certain terms over others and approach this consideration with respect for the varying subject positions and perspectives of the people involved in and affected by intercountry adoption and surrogacy.

Synergies and Differences between Adoption and Surrogacy Thematic Areas

Bringing together experts on ICA with those on surrogacy created some fruitful ground for sharing lessons and experiences. According to Darnovsky and Beeson, ‘Participants whose work to date has focused primarily on surrogacy-related issues deeply appreciated the opportunity to interact with intercountry adoption experts from many countries and to learn from their experiences.’ While many of those who participated in ICA-related thematic areas come from social science and social work backgrounds, participants, particularly in Thematic Area 5 *Global Surrogacy Practices*, also hailed from public interest organizations and disciplinary backgrounds in medical sciences, bioethics, and law. And since intercountry surrogacy is a much more recent phenomenon than intercountry adoption, the Forum presented a fruitful opportunity to discuss parallels and departures.

This comparison is not without precedent. Selman states,

Cahn (2011, 2011a) has looked at the possibility of applying adoption research to the experience of assisted reproductive technologies, arguing that adoption’s lessons are particularly relevant when the technology involves the use of ‘donor’ sperm, eggs and embryos, thereby creating families in which the child is not genetically related to one or both parents. She identifies several areas in which adoption’s lessons could be useful. These include secrecy and the with-

holding of information; a focus on the best interests of children; the creation of ‘non-traditional’ families, particularly as more single, gay and lesbian adults use ART (assisted reproductive technology); the impact of market forces; and legal and regulatory frameworks to inform standards and procedures. (Selman 2014: 9)

Some surrogacy experts thought that the Hague Conference’s 2014 Report on surrogacy insufficiently emphasised women’s rights, while other participants were concerned about the perceived marginality of the child in most surrogacy arrangements.¹³ The issues concerning women working as surrogate mothers that Forum participants identified as being in need of greater scrutiny include their vulnerability to exploitation, lack of independent legal representation, oppressive restrictions of personal liberty during pregnancy, side effects of hormonal stimulation, heightened risks of non-medically indicated routine caesarean section births, lack of follow-up health care, and multiple psychological consequences related to stigmatization, secrecy, separation from baby(ies), and the surrogate mothers’ relationships with spouses and existing children.

Darnovsky and Beeson noted that ‘An aspect of commercial surrogacy for which there is no analogue in adoption is the use of third-party gametes. Both purchased eggs and sperm are often components of international surrogacy arrangements.’ Forum participants in Thematic Area 5 expressed concern about the lack of evidence-based information on long-term risks of the hormonal manipulation of the egg providers’ endocrine systems as well as the minimal information available on short-term risks, making truly informed consent problematic. Furthermore, when it comes to the problem of access to information (discussed in greater detail below), we can take the lessons learned from adoptees to pre-empt some difficulties ahead; for example, in India, the surrogate mothers’ and egg providers’ names do not currently appear anywhere in the birth or hospital records of the resulting children.

Participants readily agreed that it is important to address both women’s and children’s rights in policy and advocacy work around international adoption and surrogacy. Several other important parallels and divergences in adoption and surrogacy advocacy and research were discussed over the course of the Forum and are characterized in the sections below.

The Subjectiveness of ‘Best Interests’: Reflections of the Powerful?

Discussion, particularly in Thematic Area 1, revolved around the ways children’s ‘best interests’ are constructed and deployed, in an effort to clarify what ‘best in-

¹³ It should be noted, however, that Part C of the 2014 Study sets out many of the women’s rights issues arising in relation to international surrogacy arrangements which were discussed at the Forum (cf. HCCH, 2014b: 89). The HCCH also identified objectives of further international work in the 2014 Report, e.g. at para. 61, where it states that an objective of international work would be ‘to ensure that ISAs [international surrogacy arrangements] are conducted in a manner which respects the human rights and welfare of *all* those involved with the arrangement’ (HCCH, 2014a, emphasis added).

terests' does or should mean – not only in intercountry adoption but also in international commercial surrogacy arrangements. Because 'best interests' are too often in the 'eye of the beholder' – and the beholder is rarely the child but her interlocutors in adoption and surrogacy – it is problematic to base fundamental life decisions for a child on 'best interests'.

According to Richards,

The best interests of children are not always neatly compatible with the rights and interests of parents, birth or adoptive, making children's best interests inevitably contested.

...Values and assumptions about what represents 'best interests' can vary, but in adoption policy they are inextricably linked to children's rights discourse (James et al., 1998; Qvortrup et al., 1994) and kinship ideology (McKie and Callan, 2012)... 'interests' are not always 'clear-cut or obvious' and are often constructed through other dominant positions such as the sending or receiving countries, adoption agencies, and human rights organisations (Saclier, 2000: 53-4). (Richards, 2014: 2-3)

Högbacka adds, 'Under such circumstances, there is a real danger that "best interests of the child" just reflect (class-based and gendered) notions and values of the powerful' (Högbacka, 2014: 11).

Ethnocentrism and Inequality in 'Best Interests'

Forum participants noted that the construction of 'family' in the HCIA is implicitly Western, nuclear, neo-local, and hetero-normative. This construction can influence the criteria for determination of a child's 'adoptability' as well as a family's qualifications to adopt. It is important to consider because this Western construction of family often contrasts with traditions of extended-family and informal childcare in many countries of origin, particularly in Africa, where a child's circulation among kin and community rarely implies a severance of ties with the birth parents or a relinquishment of their parental rights. Few first families who relinquish children for intercountry adoption understand their actions as having permanent implications, partly because they equate adoption with their own cultural traditions of child circulation, and/or because it is not always presented to them as a permanent arrangement (Cheney and Rotabi, forthcoming). Since children's 'best interests' – their rights and well-being – are inextricably tied, at least initially, to those of first families, it is important that they are not marginalized or misled in the process of adoption. Högbacka (2014) also reminds us that we must acknowledge that first families are not just mothers but also fathers, aunts, uncles, siblings, grandparents, and so on. Extended family and local practices of childcare in countries of origin therefore need more attention in determinations of adoptability under the HCIA.

Such cultural considerations have implications not only for determining adoptability but also for determining subsidiarity. While they agreed that it was ambiguous, Forum participants disagreed on whether it was appropriate that the HCIA prioritizes intercountry adoption before institutionalization in countries of origin. Participants came to the conclusion that the subsidiarity principle was ap-

appropriate only if ‘subordinate to the best interests of the child’, to avoid being driven by prospective adopters’ or agencies’ demand for children. Despite various HCIA safeguards that apply to obtaining the consent of parents, Högbacka claims that ‘There is the danger of subsidiarity in many cases being an empty word, sometimes even being viewed by adoption agencies as a threat (to the smooth continuation of adoptions). This leads to the marginalization of families of origin and other domestic solutions’ (2014: 11-12). Though Van Loon stated in his keynote that the HCIA puts the determination of subsidiarity in the hands of countries of origin, it is clear that in current practice, many countries lack the capacity to make that determination without external pressure from receiving countries – particularly if they are not signatories to the HCIA but also where signatory countries lack clear guidelines, resources for implementation, and technical support. Though Van Loon and other authors of the HCIA saw the subsidiarity principle as a way for countries of origin to maintain control over the process, others see it as a difficult burden for ill-equipped countries of origin in the context of unequal global power relations.

Högbacka (2014: 12) noted that,

Although...the Convention cannot solve the root causes of why these children are adopted abroad, it must be acknowledged that by operating under such conditions of inequality without stipulations regarding support to families of origin, the Convention perpetuates such divisions. Such practices not only violate the obligation to enable the child to stay with the family of origin but also the principle that poverty alone should not be an acceptable reason for intercountry adoption.

Further, we must consider whose voices currently dominate in adoption discourse; even where countries of origin are involved in decisions about a child’s adoptability, the views and concerns of adoptees and first families – mothers in particular – are often excluded.

Many relinquishing families do so not just because of poverty but also because of poverty compounded by additional shock, like the death of a family member or the loss of a job or home. David Smolin suggested that assistance be offered for family support and strengthening before international adoption is considered. Otherwise, ICA ends up being ‘a permanent solution to a temporary problem.’ Others suggested broader structural, preventive measures at the inter-state level; in other words, if we want to prevent unnecessary adoptions, we need to redress not just the micro but the global inequities that lead to it, and support international development efforts that emphasize child and family welfare and protection.

Toward a More Dynamic Understanding of ‘Best Interests’

What ‘best interests’ means in adoption discourse has changed historically as ideas about adoption have shifted. For example, while it was once thought that a ‘clean break’ from first families was in adoptees’ best interests, open adoption is now standard in domestic adoptions in the global North. The HCIA does not define

the nature of adoption as either opened or closed, and leaves this to national law. However, Richards writes, ‘In some national legal systems, adoption is still ‘closed’, and such adoptions are clearly not in the best interests of the adopted person, the first family or indeed the adoptive family.’ (2014: 4). Despite its complexity, Forum participants generally encouraged more openness in intercountry adoption, a topic that is further detailed in the next chapter.

In fact, some thought the HCIA also needed to reflect a more dynamic understanding of best interests that change across an adopted person’s lifetime. Hollee McGinnis argued that we should think about ‘What is the best interest of the child now, and throughout his or her lifetime and generations to come?’ For example, the HCIA currently refers to adoptees only as children, yet adoption affects people over their lifetimes. It is therefore crucial to include adopted people – children and adults – in the construction of policies that determine their own best interests. While adoptee organisations currently have the opportunity to attend Special Commission meetings reviewing the operation of the Convention, they can be more effectively utilized to ensure that the on-going interests of the adopted person are a priority.

From Children’s Best Interests to Children’s Rights

Monica Dowling’s presentation in a joint session on ‘best interests’ illustrated the subjectiveness of the concept in adoption policy and the need for more effectively contextualised implementation: ‘the term should not be used as an abstract concept but as a process of decision making which should be practical and responsive to the changing interests of the adopted person. The participants emphasised the need to “consider the individual child in front of us when making decisions on their behalf”’ (Richards, 2014: 3).

Further, agencies must be held accountable for decisions they make on behalf of children, ‘in their best interests’. Nigel Cantwell argued that ‘best interests’ had been manipulated and abused to reflect the interest of interlocutors and adoptive parents, and that we should focus instead on children’s human rights. A comprehensive rights-based guideline or checklist such as that suggested in Cantwell’s (2014) UNICEF publication might help concretize the concepts of ‘best interests’ and subsidiarity. Forum participants recommended that such guidelines start with the question ‘What should I be able to say to the adopted person about the decision to place them for intercountry adoption?’ (Richards 2014: 3). The guidelines could include timing, risk assessment, welfare available in country of origin, local definitions of adoptability, particular needs, family contact and reunification, and preservation of information (in which Central Authorities could play an important role).

The ‘Best Interests’ of the Child in International Commercial Surrogacy

In sharp contrast to adoption, the conversation about the ‘best interests’ of the child in international commercial surrogacy is just beginning. It may seem difficult to consider the rights of children who have not yet been conceived, but it is im-

perative to consider whether it is in the ‘best interests’ of children to be born through this method.

The Thai surrogacy scandals that broke just before the Forum in August 2014 – one in which an Australian couple abandoned a baby boy with Down syndrome while taking his twin sister, amidst revelations that the commissioning father had multiple child molestation convictions (Pearlman, 2014); the other in which a wealthy 24-year-old Japanese man, claiming he wanted a big family, had fathered 16 children through Thai surrogate mothers in the course of about two years (Rawlinson, 2014) – threw the question of children’s interests in surrogacy into greater relief. Despite other stories of commissioning parents abusing or molesting children born through surrogacy, Darnovsky and Beeson (2014: 19) point out that ‘intermediaries/clinics may not screen commissioning parents in any way (and often they are not compelled by domestic legislation to do so).’

Though little is known of the medical implications for children born through surrogacy, some studies indicate higher risk of foetal anomalies due to *in vitro* fertilization (Merritt et al., 2014). In surrogacy, health risks are compounded (sometimes four or five-fold) after birth by the immediate transfer of children into commissioning parents’ care, meaning that neither the child nor the mother receives the health advantages associated with nursing (WHO, 2014). Darnovsky and Beeson (2014: 23) add that,

Regardless of whose eggs are used to create the embryo there is an obvious physiological connection between birth mother and infant that begins before birth. In addition to lacking understanding of the impact of the separation of the child from its birth mother, we know very little about whether or not the emotional detachment of the birth mother from the developing infant, a practice encouraged by clinicians during the course of the pregnancy to ease the trauma of relinquishing the baby at birth, will have psychological/ emotional consequences for the child.

Though many surrogate mothers will cite the ‘best interests’ of their own children – the desire to educate them or provide them with a house – as a reason for entering into commercial surrogacy, their children may suffer adverse effects when their mothers leave them to bring to term a child they will hand to someone else. They are sometimes left with relatives or neighbours who may not care for them as their mother would, she is often not allowed to visit them, and they are not always able to visit her at the clinic. This can lead to separation anxiety and even fears of abandonment when they ‘see their parents willingly giving away children after birth’ (Steadman and McCloskey, 1987). Rotabi and Goswami also shared an anecdote from their interviews with surrogate mothers in Gujarat, India: an interviewee’s seven-year-old son interjected in the conversation, saying, ‘We don’t need the money; can we just keep my brother?’

Identity, Openness, and the Importance of Information

Questions of how experiences of adoption and surrogacy shape people’s subjectivity also arose in dialogue at the Forum. This section characterizes the sentiments

that emerged from that dialogue and considers the subsequent recommendations for more openness in intercountry adoption and surrogacy, as well as the attendant importance of the availability of information – from the very beginning of adoption and surrogacy processes and throughout the lifetimes of individuals who have been adopted and/or born through surrogacy.

Identity

In a joint session, McGinnis asked that we view adoption policy ‘from the heart and not just from the intellectual perspective.’ Though adoptees do not always seek to be identified as ‘orphans’ or ‘adoptees’ and often work to cultivate other aspects of their identities (Gray 2009), it is important to acknowledge that adoption profoundly shapes one’s identity in immutable ways. For this reason, we need to continue to work to avoid pathologising adopted people and families.

Pre- and post-adoption services could play a larger role in accommodating adoptees’ journeys through identity formation. Because intercountry adoption is also often interracial and intercultural, Richards (2014: 8) notes that ‘Adoption support groups commonly focus on activities that aim to link the adopted person to their origin cultures, but it should not be assumed that these activities assist children in learning about ways to respond to racism in their adopted countries.’¹⁴ Those conducting home studies and offering post-adoption support – including informal organizations – could therefore give more attention to dimensions of racial and cultural difference in ways that help adoptees and their families to cope with those differences in positive ways.

At the same time, first families continue to be a ‘hidden dimension’ in intercountry adoption. Those implementing the HCIA could do more to acknowledge the importance of extended family, particularly in Africa. Aunts, uncles, and siblings may turn out to be international adoptees’ most important potential contacts for learning more about their own identities through first-family contact.

Psychological issues associated with surrogacy are not currently well understood. Though the ‘fetal origins hypothesis’ suggests that ‘prenatal environmental exposures – including maternal psychological state-based alternations in in-utero physiology – can have sustained effects across the lifespan’ (Verrier, 1993), it is still too early to know the long-term effects of having been born through surrogacy. It is often presumed that children born through surrogacy (particularly those genetically related to their parents) are not likely to link their identities to the circumstances of their birth. But then many underestimated the desire of adoptees to learn more about their birth families as they came of age, and we are already seeing children born through third-party gamete providers wanting to know more about those providers. Darnovsky and Beeson (2014: 45) ask, if children are told that they were born through surrogacy, ‘will they too want more information about the

¹⁴ See the Red Thread Broken blog post (19 December) on the suicide of a 13-year-old international adoptee for an incisive account of such experiences:
<http://redthreadbroken.wordpress.com/2014/12/19/in-memory-of-emilie-grace-olsen-and-all-adoptees-gone-too-soon/>

surrogate mothers who gave birth to them? Will some or many parents want to establish and maintain a relationship with the surrogate who gestated their child? What role should intermediaries be encouraged or required to play in these situations? These issues become more acute in international commercial surrogacy arrangements, where the surrogate will live in another country and often be of a different ethnic origin than the child and commissioning parents.

Openness

Studies by Grotevant et al. (2013; 2007) have shown that open adoptions benefit first mothers, but adoptive parents and adoptees may also see it as a way to provide adoptees with essential information for identity formation. Despite this, the majority of intercountry adoptions remain closed, with full severance of ties. Forum participants were by and large against the ‘clean break’ model that predominates in intercountry adoption; not only is it premised on completing Western families’ notions of exclusive, nuclear parenthood but ‘it sets up the terms of what connections mean, effectively erasing origins’ (Högbacka, 2014: 8). Such denial of the existence or importance of first families can re-traumatize adoptees, particularly those who, in McGinnis’ words, ‘wear their birth culture on their face’.

The clean break model also disproportionately affects birth parents, as they are in no position to demand information about their child; they often suffer grief and depression as a result (Grotevant et al., 2013). Some surrogate mothers also report similar feelings of connection with the children to whom they have given birth and yearn for news of them long after relinquishment (Darnovsky and Beeson, 2014: 28).

There are also ethical consequences to gamete provider and surrogate anonymity in international commercial surrogacy arrangements. According to Darnovsky and Beeson (2014: 30), ‘Anonymity of providers is problematic not just because it deprives provider and offspring of the future option of ever learning about each other’s identity, but also because it limits families’ access to information on newly discovered genetic risks that may have been passed on inadvertently.’

‘The current practices are inhuman,’ concludes Högbacka (2014: 9). ‘There are no grounds for treating first mothers differently just because they live in the Global South and have not been able to voice their concerns.’

Barriers to openness certainly exist, including distance, language, culture, and sizable wealth disparities between the original and adoptive families. While such differences must be taken into account, it is clear that ‘greater openness would benefit adoptees’ and first parents’ needs to know (about) each other. It would also move intercountry adoption towards more inclusive and just practices by participation instead of erasure’ (Högbacka, 2014: 10).

Some adoptive parents are very supportive of their children who want to conduct birth family searches as they grow older and express desires to know more about their original families. However, the trail may have grown cold by the time an adoptee is able to initiate a search for her first family. Forum participants

were thus overwhelmingly in favour of the maintenance of information that would make contact with original families possible. Agencies could assist with this by maintaining records and helping initiate contact between adoptees and their original families, as currently happens in many domestic adoption practices. By the same token, the meaning of ‘open adoption’ needs to be made explicit, both in legal and informal terms, so that the rights of all parties are protected.

Information

The necessity for clear and accessible information surrounding adoption and surrogacy came up time and again at the Forum. First and foremost, people who were adopted or born through surrogacy have a right to information about their origins. Even seemingly small and insignificant information about a birth family or surrogate mother can help adoptees and individuals born through surrogacy arrangements to piece together their pasts and construct their identities. Too often, though, they have too little information or find that the little information given to them through intermediaries is inaccurate or has even been falsified. Sometimes it is actively erased, as when birth certificates list only adoptive or commissioning parents and make no mention of birth mothers or gamete providers.

This is especially pertinent given that adoption agencies are overwhelmed by requests from adoptees for information on their first families (Att Adoptera, 2007: 3; Speirs et al., 2005: 843). However, Selman reported that in Thematic Area 3, much discussion revolved around the question of whether agencies are part of the solution or part of the problem, as agencies – whether accredited or not – sometimes have a hand in obfuscating information that may halt an adoption. The same can be said of agencies that broker international surrogacy arrangements, which have been criticised for providing incomplete, insufficient, or inaccurate information to both intending parents and surrogate mothers. Darnovsky and Beeson (2014: 19) also note that, ‘Because intermediaries are often not part of stable enterprises, central government registries may be the most feasible approach to preserving birth records for those who later want accurate information on their origins.’ These challenges are highlighted in the case of international commercial surrogacy brokers Planet Hospital, which went bankrupt in December 2013, abandoning surrogate mother, commissioning parents, and their children (Cassell, 2014).

Similarly, families of origin and surrogate mothers need to receive regular information about the children to whom they gave birth. In the case of children with special needs, better education for original parents can even help prevent the need for adoptions of such children in the first place by reducing stigma, increasing sensitivity, and building awareness – thereby fulfilling the subsidiarity principle. Rotabi also notes that, in contrast to the original mothers of adopted children, ‘surrogate women are asked to consent prior to the experience of pregnancy and childbirth; they must make a critical decision prior to the full emotional knowledge of the experience’ (2014: 20). Even young adults who provided eggs or sperm may later regret their decision because they do not have information on whether or not

they have genetic children who might also be wondering about them (Daniels et al., 2012). Rotabi therefore argues that ‘Any movement towards regulation should include this basic human need as an emotional safeguard for surrogate mothers and also the children born of such arrangements’ (2014: 20).

Finally, adoptive and commissioning parents need sufficient and accurate information prior to adoption so that they are adequately prepared to make the decision whether to adopt or engage a surrogate. In fact, the Hague Conference expressed concern about misinformation given to commissioning parents by clinics and agencies (HCCH, 2014a). If they decide to adopt or engage a surrogate, intending parents need to be adequately prepared for the situations they may encounter, particularly for children with special needs – which may include older children and those who have been undergone long-term institutionalized care. And the fact that the long-term effects of having been born through surrogacy are still little understood again points to the need for on-going support.

The Effects of Commercialisation

The combination of poverty and profit-potential make for a global market in modern practices of family making through intercountry adoption and surrogacy (Cheney, 2014). Forum participants agreed that global inequities and market forces need to be better acknowledged and addressed in both international adoption and surrogacy. Structural conditions of poverty and lack of alternative support drive women to engage in surrogacy and cause parents to relinquish children – often under circumstances of temporary stress but with lifetime emotional consequences. At the same time, structural poverty makes vulnerable populations susceptible to exploitation by profit-making intermediaries in adoption and surrogacy.

Despite the HCCH’s identification of poverty as an insufficient justification for removing children from their homes or seeking adoption for them, some Forum participants argued that even the rise in special-needs adoptions is driven by poverty and stigma in sending countries and the decreasing ‘supply’ of more sought-after children, such as infants and children without health issues. Relinquishing parents and surrogate mothers alike regularly cite poverty as a motivator for their actions. At the same time, intercountry adoptions costs USD \$25-40,000, and the global surrogacy industry is estimated at well over one billion dollars per year. In both cases, it is the middlemen who stand to profit. Darnovsky and Beeson (2014: 18) point out that

The commercial nature of international surrogacy has attracted some players who are focused primarily on financial gain, a goal often in conflict with the best interests not only of the child, but of intended parents and surrogate mothers as well. Financial incentives appear to be encouraging some people who have operated intercountry adoption agencies to shift their focus to surrogacy in countries including the United States, Guatemala and Mexico... Making surrogacy more legitimate may also increase opportunities for illegal adoption, since many children are placed before they are born and because one can serve as a cover for the other.

Forum participants were in general agreement that commercial dynamics combined with lack of regulation and oversight provide fertile ground for corrupt practices that may leave many victims in their wake.

Participants in Thematic Area 4, *Force, Fraud, and Coercion*, spent a good deal of time grappling with the consequences of this intersection – both through a discussion of the HCIA in relation to the Palermo Protocol and also through lessons learned from an extensive case study of Guatemala’s experience with illicit adoptions and subsequent reforms (see Rotabi, 2014).¹⁵ Their goal was to determine the extent to which intercountry adoption and surrogacy are implicated in human trafficking. In fact, consideration of trafficking in adoption goes back to the genesis of the HCIA: the 1990 Van Loon report (1993) that set the stage for talking about exploitative practices in intercountry adoption was also the first to apply the concept of ‘trafficking’ to it. David Smolin more recently elaborated on this through his concept of ‘child laundering’ (2006), which he also presented in a Thematic Area 4 session.

While the issues of exploitation in intercountry adoption are well documented, particularly through examples like Guatemala, Cambodia, and others discussed in Thematic Area 4, the question of exploitation in surrogacy was more difficult for participants to come to agreement on; women who act as surrogates are asked to consent to relinquishment of the child as a precondition of being impregnated. Does this fact make surrogacy tantamount to the selling and buying of children? Though women who have acted as commercial surrogates (particularly those interviewed in India) have reported that they went into surrogacy arrangements of their own volition and for their own benefit and were therefore not exploited, many Forum participants felt that it was difficult to take these answers at face value, as the agency of the women making decisions to be surrogates was usually constrained by extreme poverty and very limited alternatives. In the end, Forum participants in Thematic Area 4 felt that there was still not enough evidence to determine the extent of exploitation in global surrogacy practices.

It is clear, however, that adoption and surrogacy have become commercialised and that financial incentives have led to unscrupulous practices, even where clear standards and regulations such as the HCIA are in place. The HCIA prohibits ‘improper financial gain’ in adoption, which was further elaborated in the HCCH Guides to Good Practice (2008; 2012). Does this mean, though, that there are conditions under which financial gain is ‘proper’? Because various professionals must necessarily be involved in the execution of adoption orders, the HCIA allows relevant accredited authorities and bodies, as well as other approved individuals involved to charge reasonable and lawful fees for their services. However, the HCCH, in their *Note on the Financial Aspects of Intercountry Adoption*, states that

...the lack of clarity and consistency in deciding what is ‘reasonable’ has led to situations where prospective adoptive parents are required to pay excessive

¹⁵ The Palermo Protocol makes no specific mention of intercountry adoption or surrogacy. For specific provisions relating to adoption, please refer to the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, particularly Article 3.

amounts to complete an adoption... regrettably, this still sometimes occurs and has been shown to be often linked with, in particular, the procurement of children for adoption. In extreme cases, more usually in the context of intercountry adoptions from non-Convention States of origin, this may involve the abduction, the sale of, and the traffic in children for intercountry adoption (HCCH, 2014c: 3).

Forum participants discussed how, though agencies were created to solve the problems of independent adoptions and surrogacy, they have become a part of the problem and at worst are accused of trafficking and 'rescue', ignoring the subsidiarity principle and the rights of the child and her first family in search of profits. They thought that private, for-profit organisations now played a role in fraudulent and unethical practices. It is possible that attempts at regulation of surrogacy could stipulate state-appointed, non-profit agencies – or Central Authorities similar to (or the same as) those for intercountry adoption – to broker arrangements. However, this has not entirely eliminated concerns about fraud and trafficking in adoption.

This led to protracted discussions about how to remove money from the processes altogether – or indeed whether it is even possible. Agencies who have lost income due to the decline in intercountry adoptions over the past ten years also have increases in costs for home studies, preparation and support, particularly due to the increase in special needs placements.

There are also problems with donations from agencies and prospective parents to orphanages and incentives to first families, either to keep or to relinquish their children. Rather than trying to redirect cash flows within the adoption industry, Nigel Cantwell suggested that we eliminate them altogether. [SR] 'Cantwell...argued that sending countries should be encouraged to request developmental aid to support preventative care to protect families and support family reunification.'

Though the Hague Conference 2010 Special Commission recommended 'a clear separation of intercountry adoption from contributions, donations and development aid,' (HCCH, 2010, as cited in HCCH, 2012: 91), countries of origin still report subtle pressures to make children available for adoption as a condition of receiving aid.

Still other types of donations can establish skewed relations of obligation and reliance between donors and recipients; often, orphanages in countries of origin are funded externally by individuals or organizations in a receiving country with interests in creating a pipeline for international adoption. In his description of the current situation in Uganda, Mark Riley suggested that private donor influence was impeding the development of child protection and welfare structures (see also Cheney and Rotabi, forthcoming).

Another difficulty for getting the money is the need for birth family support and strengthening in order to ensure enforcement of the subsidiarity principle. For surrogates, the concern was that contracting agencies guarantee their postnatal and long-term medical treatment for conditions arising from their surrogate pregnancy. This is especially important because commercial interests often encourage surro-

gate mothers to be implanted with multiple embryos to ensure fertilization. If more than one child is born, both clinics and commissioning parents may see it as 'cutting costs' – but sometimes at great expense to the children's and to surrogate women's health.

THE WAY FORWARD

'The depth of what we did here is really remarkable.'

– Carmel Shalev, closing plenary

'There are commonalities that we are going to see in the reports. As you see the commonalities, then we can figure out what are the next steps, I would hope – I know it's hard work; maybe we can do another one??'

– Rowena Fong, closing plenary

The recommendations made by Forum participants reflect a concern for the basic human rights of all involved in intercountry adoption and surrogacy. However, it is important to realize that international treaties like the HCIA have both advantages and limitations: the minimum standards they can set can be adapted in domestic laws, but they are also relatively static documents that, once they have been adopted, cannot easily be changed to reflect new developments and realities. Whilst the 1993 Convention addresses these issues in intercountry adoption, there is not yet an instrument on surrogacy in place. The responsibilities of the Hague Conference in respect of surrogacy are therefore, at this stage, quite different from those regarding the 1993 Convention. For this reason, it is important to keep in mind that, if the Hague Conference will be able to agree on any instrument to address surrogacy issues, it will take some time. In any case, ensuring ethical practice in intercountry adoption and surrogacy is not only the responsibility of the Hague Conference, but also, and indeed primarily, of the states joining and implementing these international treaties, and of the agencies and individuals concerned.

It is also important to note that the views of the Forum participants, even where fairly unanimous, are by no means the totality of perspectives on the issues, nor do they get set in stone in this document. In fact, many participants who came into the Forum with fairly certain views were challenged by the discussion to re-think them. This was especially true of attitudes toward the potential regulation of surrogacy, which is hardly a foregone conclusion: Some thought an international convention could mitigate many of the current problems, while others thought it might undermine countries' existing prohibitions and/or normalize a practice which should perhaps be banned altogether. Many emerged from the discussions with a different view than that with which they started, but most took a pragmatic approach, agreeing that these positions are not mutually exclusive and that more research is needed.

These suggestions for ways to continue to move the debates forward – many of which were shared by the Thematic Area chairs in the final plenary session and in their reports – are therefore issued here with these disclaimers in mind.

Preserving Information and Providing Post-Adoption Support

One of the biggest concerns that came out of conversation at the Forum was the availability and preservation of information in adoption and surrogacy. In inter-country adoption, Central Authorities could play a greater role in ensuring and maintaining adoptees' access to information. When adoptees search for their families, they seek not only the 'major' facts but also the seemingly insignificant details about the circumstances of their births and relinquishments. All available information is helpful for adoptees – and it may become so for children born through surrogacy as they come of age and start to wonder about the circumstances of their births.

Another major concern in surrogacy is the inadequate explanation of medical and psychological risks, for surrogate mothers and egg providers. The same could be said of relinquishing parents in adoption, many of whom report having little understanding of the long-term consequences of relinquishment.

Information is also of paramount importance as intercountry adoption trends more toward special needs adoption, where all parties involved could use more adequate preparation. This includes first and foremost education and support to enable first family preservation so as to possibly lessen the necessity for intercountry adoption in the first place. If intercountry adoption is still deemed an appropriate intervention for a child, adoptive parents also need better information to prepare them for the challenges, as well as more post-adoption support.

Post-adoption support is important for all adoptive families, but the role of agencies post-adoption is not just about adoptees and their families; it is also about their responsibility to the child's country of origin. It is therefore essential that Central Authorities follow up with reporting as requested by the countries of origin. There is a need for careful monitoring by Central Authorities and greater discipline on the part of agencies. Special needs adoptions, however, are even more complex and take a lot more work, and Selman reminded us that '...it is over-simple to think that it suddenly changes intercountry adoption into something ethical and marvellous... There are new sorts of problems to face...'

An End to 'Clean Breaks' and Better Enforcement of HCIA Principles

Chairs reiterated recommendations that intercountry adoption, following domestic adoption, move away from 'clean break' approach and be kept as open as possible – for the sake of adopted people and first families 'so that there is an opportunity for a route back' said Richards. Högbäck added that there are individual psychological impacts, but it is also about global structures of power. For example, first families are only explicitly mentioned in the HCIA in the context of giving consent for adoption.

There are also still problems with implementation of the subsidiarity principle. The HCIA leaves the question primarily to countries of origin,¹⁶ but Forum participants felt that clearer guidelines are needed to prevent obvious violations. For example, Kay Johnson claimed that China has enough domestic prospective parents and yet is still conducting more intercountry adoptions than any other country (see Selman 2014). Poverty is not a justifiable reason to take children into alternative care and make them available for adoption, yet it still happens often. The priority should be on assistance to first families and development aid to countries (though this must be separate from adoption considerations). Otherwise, intercountry adoption will continue to be a permanent solution to a temporary crisis in the first family. 'Informed consent' is problematic in coercive conditions of poverty and repressive reproductive policy, such as under the One Child Policy in China. Selman said, though, that China is an example of a relatively wealthy country utilizing intercountry adoption whereas most of the world's poorest countries have not in fact resorted to allowing intercountry adoption as a means to deal internally with child poverty. So it is important to note that intercountry adoption does not actually address poverty, either at the household or the national level.

Accrediting Agencies for Accountability

Participants also felt the need to put more pressure on adoption agencies, some of which may be threatened by the increase in domestic adoptions, to abide by the subsidiarity principle. There was a feeling that there are too many agencies, in both sending and receiving countries. Selman noted, however, that agencies are highly varied in structure and function, and that defining and clarifying 'accreditation' under the HCIA is therefore very important. He asked, 'How do we extend [accreditation] to the whole practice when technically it appears to be useable only in relation to those who ratify the Convention?' One important thing to remember is that the HCIA only sets minimum standards, but those can be built upon.

Though most adoption agencies are non-profit and are very responsibly and ethically run, many Forum participants felt that improved financial transparency and accountability are important to avoid illicit profitmaking, especially amidst the decrease in intercountry adoption and agencies' attendant falling income. Unethical practices by agencies wishing to profit could in fact be bolstered by the Western-centrism of the HCIA by deploying its narrow definition of 'stable family' and determining who is an 'orphan' and who is 'adoptable'. They acknowledged that reform will require the cooperation of a wide range of stakeholders, but participants nonetheless called on the Hague Conference Permanent Bureau to keep reinforcing the message that receiving states should apply the same standards to all states of origin, regardless of whether or not they have ratified the HCIA.

Addressing Commodification and Inequality

At the end of the Forum, many participants reflected on what it means to com-

¹⁶ The HCCH *Guide to Good Practice* (2012), however, encourages co-responsibility between states.

modify human beings in adoption and surrogacy. Rotabi said that this was an especially difficult struggle for participants who want to keep intercountry adoption as an important option for children who really need it. Part of the answer was to keep thinking through how to prevent exploitation, protect victims, and prosecute the most nefarious offenders. Rotabi noted that we must inevitably reduce the issue to certain individuals who can be held accountable for unscrupulous acts, but at the same time, we must always keep in mind the macro-structural context from which entire populations need protection. In the final plenary, she said,

We have to ask ourselves, why do we have such gross inequalities that create these circumstances for women? ...How do we talk about the structural inequalities in creating opportunities for work that is not around exploitive labour but work that women really, really want to engage in, because women will say, 'I'm choosing the best of my options.' How about some better options??

Darnovsky added that multiple inequalities such as class, gender, sexuality, race, and caste must always be held in focus in debates about commodification and exploitation.

In addition, Högbäck expressed frustration that we cannot seem to get beyond these sentiments to create concrete steps to address inequality, some of which cannot and should not always be reduced to problems with intercountry adoption and surrogacy but are more general and come back to broader questions of international development. As Cheney noted in a plenary discussion, 'We need to develop broader childcare systems within sending countries for adoption and not have those interrupted by a commodified market.' Representatives from Guatemala said they had learned these lessons the hard way and that they would use the knowledge they obtained at the Forum to redouble their efforts to improve child protection.

Keeping Up the Conversation between Adoption and Surrogacy

Forum discussion yielded many parallels in adoption and surrogacy, particularly in recalling the challenges in regulating adoption to think about how potential regulation of surrogacy could be structured. Forum participants felt that this cross-fertilization of adoption and surrogacy was very productive and should continue. According to Darnovsky, discussions of this nature enlarged the focus of the surrogacy participants, many of whom had focused in their past work on intercountry surrogacy on concerns about surrogate mothers. Though adoption and surrogacy are similar in that most infertile couples may consider them together as their only two options for having children, Darnovsky pointed out that there are many ways in which the analogy between intercountry surrogacy and intercountry adoption – and other analogies invoked around labour, work (especially sex work), and organ transplantation – are both helpful and dangerous in that they do not map on very exactly and therefore can obfuscate as well as reveal aspects of international commercial surrogacy.

In surrogacy, there is also a larger, fast-moving technical context of assisted reproductive technologies (ART), with the futuristic prospect of inheritable genet-

ic modification having potentially profound ethical implications. The issue relates to concepts of kinship, which are greatly manipulated in ART: Venkatachalam said in her keynote discussion that one child can conceivably have three mothers – gestational, genetic, and social – but a double standard applies in the law, in which gestational surrogates (the only kind allowed in India) are told that

...her carrying that child for nine months is not mother enough, whereas... women going in for IVF [in vitro fertilization] are told that even if the gametes are from donors, they have said, ‘You are the person who carries the child for nine months, so you are the mother.’ So it’s really interesting how industry kind of plays and negotiates these relationships and kinships.

In other words, the client is usually considered the legal parent to allow commerce to continue. But new technologies will continue to raise new questions that challenge ethical and legal practice. ‘I think what we need is new categories for thinking about what surrogacy is,’ Darnovsky said, ‘and I don’t think we’ve come to those yet, but I think we should be striving for that.’

There was general agreement, however, that – while we must never forget the concerns of the women in surrogacy – we should always keep in mind the children of surrogacy, pushing people to think beyond the child as ‘product’. The statelessness of children born through international commercial surrogacy is a clear violation of their rights and therefore needs to be dealt with immediately; however, other issues are more nuanced and need further deliberation. Does international commercial surrogacy, for example, violate a child’s rights to identity, family, or nationality under the Convention on the Rights of the Child? According to Selman, the status of the child was an important discussion in his thematic area: ‘To think of how a child might think about this if they knew they were born through a surrogate was absolutely vital... Are we in any way informed about whether those who commission births in this way *do* think they *should* tell the child, and how many actually do?’ This is but one of the many areas in which we need more research.

Carrying It Forward

Finally, we considered how we could use the information yielded at the Forum to inform knowledge and practice in the various disciplines represented, from bioethics to population studies to social work. Richards stressed her thematic area participants’ plea that ‘...however flawed our understanding of the term “best interests” is... the knowledge we have about it and the knowledge that we are growing about best interests of the children involved and the adults they become does not get forgotten and just restricted to adoption and is used and understood more widely.’ Participants encouraged the Hague Conference to continue to welcome international organisations representing adult adoptees to meetings such as the Special Commission.

Selman called once more on intercountry adoption’s long history in order to look to the future. He posited that if we suddenly see an end to intercountry adoption,

...there are a million children out there who have been adopted, and we've got to have in place structures that continue to support them and inform them, and therefore...these situations are ones that don't go away – and the same will apply to surrogacy, even if we decide to ban it or [draft] a convention.

Participants thus came away with new research ideas to carry forward the questions raised. They also resolved to talk to media more effectively, to take the knowledge acquired at the Forum back to their organizations and networks, to redouble their efforts to inform policy work, and to implement plans to create online resources for people who are considering surrogacy. Various publications and collaborations are sure to emerge in time from the discussion at the Forum – of which this working paper series is just the start.

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**Appendix 1:
Participant List**

Last Name	First Name	City	Country	Primary Thematic Area	Secondary Thematic Area
Abelman	Maarten	The Hague	Netherlands	Force, Fraud, Coercion	Global Surrogacy Practices
Allan	Sonia	NA	Australia	Global Surrogacy Practices	Force, Fraud, Coercion
Baker*	Hannah	The Hague	Netherlands	Global Surrogacy Practices	HCIA Implementation and the Best Interests of the Child
Barlow	Randall	Eppstein	Germany	Global Surrogacy Practices	Intercountry Adoption Agencies and the HCIA
Baylis	Francoise	Halifax	Canada	Global Surrogacy Practices	
Beeson	Diane	Hayward, CA	United States	Global Surrogacy Practices	HCIA Implementation and the Best Interests of the Child
Boechat	Herve	Geneva	Switzerland	Global Surrogacy Practices	Force, Fraud, Coercion
Bos	Pien	Utrecht	Netherlands	Intercountry Adoption, Countries of Origin, and Biological Families	Intercountry Adoption Agencies and the HCIA
Bosch	Laura	Leiden	Netherlands	Force, Fraud, Coercion	
Botterelli	Andrew	Ontario	Canada	Global Surrogacy Practices	Intercountry Adoption Agencies and the HCIA
Briggs	Laura	Northampton	United Kingdom	Intercountry Adoption Agencies and the HCIA	Force, Fraud, Coercion
Brown	Taylor	Chapel Hill, NC	United States	Force, Fraud, Coercion	Intercountry Adoption, Countries of Origin, and Biological Families
Buttigieg	Carmen	St. Venera	Malta	Intercountry Adoption Agencies and the HCIA	Force, Fraud, Coercion
Cantwell	Nigel	Geneva	Switzerland	HCIA Implementation and the Best Interests of the Child	Intercountry Adoption, Countries of Origin, and Biological Families
Cruz	Norma	Guatemala City	Guatemala	Force, Fraud, Coercion	
Darling	Marsha	New York, NY	United States	Global Surrogacy Practices	HCIA Implementation and the Best Interests of the Child
Darnovsky	Marcy	Berkeley, CA	United States	Global Surrogacy Practices	Force, Fraud, Coercion
Davies	Miranda	London	United Kingdom	Global Surrogacy Practices	Force, Fraud, Coercion
De Graeve	Katrien	Ghent	Belgium	HCIA Implementation and the Best Interests of the Child	Intercountry Adoption, Countries of Origin, and Biological Families
Demeny	Eniko	Budapest	Hungary	Global Surrogacy Practices	HCIA Implementation and the Best Interests of the Child
Deomampo	Daisy	New York, NY	United States	Global Surrogacy Practices	Force, Fraud, Coercion

Dowling	Monica	Milton Keynes	United Kingdom	HCIA Implementation and the Best Interests of the Child	Intercountry Adoption, Countries of Origin, and Biological Families
Duncan	William	The Hague	Netherlands	HCIA Implementation and the Best Interests of the Child	Global Surrogacy Practices
Dupuy*	Sandra	The Hague	Netherlands	HCIA Implementation and the Best Interests of the Child	Intercountry Adoption, Countries of Origin, and Biological Families
Erazo Bautista	Noe Alejandro	Guatemala City	Guatemala	Force, Fraud, Coercion	Intercountry Adoption, Countries of Origin, and Biological Families
Eyal	Hedva	Haifa	Israel	Global Surrogacy Practices	
Fong	Rowena	Austin, TX	United States	Force, Fraud, Coercion	HCIA Implementation and the Best Interests of the Child
Fulda Graue	Isabel	México City	Mexico	Global Surrogacy Practices	Force, Fraud, Coercion
Goswami	Lopamudra	Bangalore	India	Force, Fraud, Coercion	Global Surrogacy Practices
Gray	Kim	Newcastle	Australia	HCIA Implementation and the Best Interests of the Child	Intercountry Adoption Agencies and the HCIA
Gupta	Jyotsna Agnihotri	Rijswijk	Netherlands	Global Surrogacy Practices	Intercountry Adoption, Countries of Origin, and Biological Families
Haworth	Gill	London	United Kingdom	Intercountry Adoption Agencies and the HCIA	HCIA Implementation and the Best Interests of the Child
Högbacka	Riitta	Helsinki	Finland	Intercountry Adoption, Countries of Origin, and Biological Families	HCIA Implementation and the Best Interests of the Child
Hoffman	Katie	London	United Kingdom	HCIA Implementation and the Best Interests of the Child	Intercountry Adoption, Countries of Origin, and Biological Families
Hübinette	Tobias	Huddinge	Sweden	Intercountry Adoption, Countries of Origin, and Biological Families	Force, Fraud, Coercion
Ikemoto	Lisa	Davis, CA	United States	Global Surrogacy Practices	Force, Fraud, Coercion
Johnson	Kay	Amherst, MA	United States	Intercountry Adoption, Countries of Origin, and Biological Families	Force, Fraud, Coercion
Kaper	Anand	Apeldoorn	Netherlands	Intercountry Adoption, Countries of Origin, and Biological Families	Force, Fraud, Coercion
Karadjova	Mariana	Geneva	Switzerland/Bulgaria	Intercountry Adoption Agencies and the HCIA	Global Surrogacy Practices
Kelly	Ruth	Dublin	Ireland	HCIA Implementation and the Best Interests of the Child	Intercountry Adoption Agencies and the HCIA
Klute	Margot	The Hague	Netherlands	HCIA Implementation and the Best Interests of the Child	Intercountry Adoption, Countries of Origin, and Biological Families
Loftus	Celia	Dublin	Ireland	Intercountry Adoption Agencies and the HCIA	HCIA Implementation and the Best Interests of the Child

Mapp	Susan	Elizabethtown, PA	United States	Force, Fraud, Coercion	Intercountry Adoption Agencies and the HCIA
Marre	Diana	Barcelona	Spain	Intercountry Adoption Agencies and the HCIA	Global Surrogacy Practices
Martinez-Mora*	Laura	The Hague	Netherlands	Intercountry Adoption Agencies and the HCIA	Force, Fraud, Coercion
McGinnis	Hollee	St Louis, MO	United States	Intercountry Adoption Agencies and the HCIA	Intercountry Adoption, Countries of Origin, and Biological Families
McLeod	Carolyn	London	United Kingdom	Global Surrogacy Practices	Intercountry Adoption Agencies and the HCIA
McRoy	Ruth	Sacramento, CA	United States	Force, Fraud, Coercion	Intercountry Adoption, Countries of Origin, and Biological Families
Misca	Gabriela	Worcester	United Kingdom	Intercountry Adoption Agencies and the HCIA	Intercountry Adoption, Countries of Origin, and Biological Families
Mohammed Soali	Hassen	Addis Ababa	Ethiopia	Intercountry Adoption Agencies and the HCIA	
Monico	Carmen	Elon, NC	United States	Force, Fraud, Coercion	Intercountry Adoption, Countries of Origin, and Biological Families
Mulay	Shree	St. John's	Canada	Global Surrogacy Practices	Intercountry Adoption, Countries of Origin, and Biological Families
Murungi	Lucyline Nkatha	Addis Ababa	Ethiopia	Intercountry Adoption, Countries of Origin, and Biological Families	HCIA Implementation and the Best Interests of the Child
Mwandha	Lillian	Kampala	Uganda	HCIA Implementation and the Best Interests of the Child	Force, Fraud, Coercion
Namubiru	Sylvia Mukasa	Kampala	Uganda	Force, Fraud, Coercion	HCIA Implementation and the Best Interests of the Child
Nichols	Victoria	Berkeley, CA	United States	Global Surrogacy Practices	
Oke	Ross	Seoul	Korea South	Intercountry Adoption, Countries of Origin, and Biological Families	Force, Fraud, Coercion
Palmerini	Paolo	Milan	Italy	Intercountry Adoption Agencies and the HCIA	HCIA Implementation and the Best Interests of the Child
Pande	Amrita	Cape Town	South Africa	Global Surrogacy Practices	Intercountry Adoption, Countries of Origin, and Biological Families
Park Nelson	Kim	Minneapolis, MN	United States	Intercountry Adoption Agencies and the HCIA	Intercountry Adoption, Countries of Origin, and Biological Families
Pärssinen-Hentula	Irene	Helsinki	Finland	Intercountry Adoption Agencies and the HCIA	HCIA Implementation and the Best Interests of the Child
Richards	Sarah	Suffolk	United Kingdom	HCIA Implementation and the Best Interests of the Child	

Riley	Mark	Kampala	Uganda	Force, Fraud, Coercion	Intercountry Adoption, Countries of Origin, and Biological Families
Rodas-Martinez	Juan Jose	Guatemala City	Guatemala	Force, Fraud, Coercion	
San Roman	Beatriz	Barcelona	Spain	Force, Fraud, Coercion	Global Surrogacy Practices
Scherman	Rhoda	Auckland	New Zealand	Intercountry Adoption, Countries of Origin, and Biological Families	Global Surrogacy Practices
Selman	Peter	Newcastle Up-on Tyne	United Kingdom	Intercountry Adoption Agencies and the HCIA	HCIA Implementation and the Best Interests of the Child
Shalev	Carmel	Haifa	Israel	Global Surrogacy Practices	Force, Fraud, Coercion
Smith Rotabi	Karen	Dubai	UAE	Force, Fraud, Coercion	
Smolin	David	Birmingham	United Kingdom	Force, Fraud, Coercion	Global Surrogacy Practices
Sweeney	Fiona	Reading	United Kingdom	Intercountry Adoption Agencies and the HCIA	Intercountry Adoption, Countries of Origin, and Biological Families
Van Ark	Irene	The Hague	Netherlands	Intercountry Adoption Agencies and the HCIA	Intercountry Adoption, Countries of Origin, and Biological Families
Van Loon	Hans	The Hague	Netherlands		
Van Sloten	Bep	Voorburg	Netherlands	Global Surrogacy Practices	
Van Wichelen	Sonja	Sydney	Australia	Global Surrogacy Practices	
Venkatachalam	Deepa	New Delhi	India	Global Surrogacy Practices	
Vich Bertran	Julia	Maastricht	Netherlands	Intercountry Adoption, Countries of Origin, and Biological Families	Force, Fraud, Coercion
Vroomans	Jan	The Hague	Netherlands	Intercountry Adoption Agencies and the HCIA	Force, Fraud, Coercion
Warneke	Savitri	The Hague	Netherlands	HCIA Implementation and the Best Interests of the Child	Intercountry Adoption, Countries of Origin, and Biological Families
Westra	Hilbrand	The Hague	Netherlands	Intercountry Adoption, Countries of Origin, and Biological Families	Intercountry Adoption Agencies and the HCIA
Whelan	Sally	Cambridge, MA	United States	Global Surrogacy Practices	Force, Fraud, Coercion
Yngvesson	Barbara	Amherst, MA	United States	Intercountry Adoption, Countries of Origin, and Biological Families	HCIA Implementation and the Best Interests of the Child

** These representatives of the Hague Conference Permanent Bureau attended as observers.*

Appendix 2: Forum Schedule

International Forum on Intercountry Adoption & Global Surrogacy ISS, The Hague, Netherlands



Day 1: MONDAY

- 8:00-9:00 Registration and morning reception – ISS Atrium
- 9:00-10:00 Welcome: introduction to thematic areas – Main Aula
- Freek Schiphorst, ISS Deputy Rector for Educational Affairs
 - Kristen Cheney, Forum Organizer
 - Laura Martinez-Mora, Principal Legal Officer, Hague Conference on Private International Law Permanent Bureau
 - Thematic area chairs: introduction to thematic areas
- 10:00-11:00 Keynote and plenary discussion: Hans van Loon, former Secretary General, Hague Conference on Private International Law Permanent Bureau – Main Aula
- 11:00-11:30 Coffee break – ISS Atrium
- 11:30-12:30 Preliminary thematic area meetings (please go to your primary thematic area)
1. HCIA Implementation and the Best Interests of the Child (Room 4.26)
 2. Intercountry Adoption, Countries of Origin, and Biological Families (Room 4.25)
 3. Intercountry Adoption Agencies and the HCIA (Room 3.25)
 4. Force, Fraud, and Coercion (Room 4.01)
 5. Global Surrogacy Practices (Room 3.26)
- 12:30 - 2:00 Lunch – ISS Atrium
- 2:00 - 4:30 Thematic area concurrent session
- Joint session for thematic areas 1, 2 & 3: The subsidiarity principle and best interests (Attic – 5th Floor)
 - 4. Child laundering and exploitation (Room 4.01)
 - 5. Overview of Concerns about Cross-Border Surrogacy (Room 3.26)
- 4:30-4:45 Break
- 4:45-6:00 Plenary discussion (all thematic areas) – Main Aula
- 6:00-8:00 Evening reception and dinner – ISS Atrium

Day 2: TUESDAY

- 9:00-10:00 Keynote and plenary discussion: Deepa Venkatachalam, Director of the Sama-Resource Group for Women and Health (India) – Main Aula
- 10:00-10:30 Coffee break – ISS Atrium
- 10:30-12:30 Thematic area concurrent session
- Joint session for thematic areas 1, 2 & 3: connections to birth culture and birth kin; open adoption (Attic – 5th floor)
 - 4. Dynamics of force, fraud & coercion: Guatemala case study (Room 4.01)
 - 5. Mapping the Industry and Policy Prospects (Room 3.26)
- 12:30-2:00 Lunch – ISS Atrium
- 2:00-4:00 Thematic area concurrent session
- 1. Post-adoption family support (Room 4.26)
 - Joint session for thematic areas 2 & 4: Birth mother experiences (Attic – 5th floor)
 - Joint session for thematic areas 3 & 5: The Role of Intermediaries in Inter-country Adoption and Cross-Border Surrogacy (Room 3.26)
- 4:00-4:15 Break
- 4:15-5:45 Plenary discussion (all thematic areas) – Main Aula
- 6:00-7:00 Screening of SAMA video *Can We See the Baby Bump, Please?* and discussion – Main Aula

Day 3: WEDNESDAY

- 9:00-10:00 Keynote and plenary discussion: Norma Cruz, Founder of Fundación Sobrevivientes (Survivor's Foundation), Guatemala – Main Aula
- 10:00-10:30 Coffee break – ISS Atrium
- 10:30-12:30 Thematic area concurrent session
- Joint session for thematic areas 1 & 3: Special needs adoption (Room 4.26)
 - Joint session for thematic areas 2, 4 & 5 Coercion Versus Agency in Inter-country Adoption and Cross-Border Surrogacy (Attic – 5th floor)
- 12:30-2:00 Lunch – ISS Atrium
- 2:00-4:00 Thematic area concurrent session
- 1 & 2. 2:00-2:50 Joint session: Orphan care and family preservation; 2:50-3:20 Joint session: Framing childhood and best interests; 3:20-4:00; Thematic area-based reflections and next steps (Attic – 5th floor)
 - 3. 2:00-2:50 Joint session with 1 & 2: Orphan care and family preservation (Attic – 5th floor); 2:50-3:20 The future role of intercountry adoption agencies (Room 3.25)
 - 4. Bridging knowledge of intercountry adoption and global surrogacy (Room 4.01)
 - 5. Next Steps (Room 3.26)
- 4:00-4:15 Break
- 4:15-5:30 Plenary discussion (all thematic areas) – Main Aula
- 5:30-6:30 Closing: steps forward, output, and dissemination – Main Aula